

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

LOUIS CRAIG JOHNSON,
Defendant.

No. CR-98-060-FVS

ORDER

THIS MATTER is before the Court on Mr. Johnson's *pro se* Motion to Reduce or Modify Sentence, Ct. Rec. 71.

In his motion for relief, the defendant argues that the Court should reduce or modify his sentence for several reasons. These reasons include (1) that he is prepared and ready to reenter society; (2) family circumstances that need to be dealt with; (3) a medical condition that requires treatment; and (4) family is ready and willing to support him in his return. These reasons do not form sufficient grounds for the relief which the defendant seeks.

The defendant's motion for relief could be read as a petition for relief under 28 U.S.C. § 2255. The defendant previously filed a § 2255 motion, Ct. Rec. 47, and the Court denied the motion, Ct. Rec. 51. The Court is without jurisdiction to hear the petition that the defendant now brings, because "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an

1 order authorizing the district court to consider the application."
2 28 U.S.C. § 2255(b)(3)(A). The Ninth Circuit Court of Appeals
3 previously denied the defendant's request to file a successive § 2255
4 motion, Ct. Rec. 52. Therefore, if the Court construes the
5 defendant's motion now before the Court as a petition for relief
6 under 28 U.S.C. § 2255, the Court cannot consider the request for
7 relief.

8 As to the defendant's request for relief, the proper forum for
9 making such a request is the Bureau of Prisons. The Bureau of
10 Prisons is the entity responsible for the administration of the
11 defendant's sentence. *United States v. Wilson*, 503 U.S. 329, 335,
12 112 S.Ct. 1351, 1355, 117 L.Ed.2d 593 (1992). It is within the
13 discretion of the Bureau of Prisons, not this Court, to determine the
14 proper time for a prisoner's release, including temporary release.
15 See 18 U.S.C. § 3622 (stating that "[t]he Bureau of Prisons may
16 release a prisoner from the place of his imprisonment for a limited
17 period of time" if release comports with the reasons set forth in the
18 statute). The Court lacks the authority to address the issue
19 presented in the defendant's motion. Accordingly,

20 **IT IS HEREBY ORDERED** that the defendant's Motion to Reduce or
21 Modify Sentence, Ct. Rec. 71, is **DENIED**.

22 **IT IS SO ORDERED.** The District Court Executive is hereby
23 directed to enter this order and furnish a copy to the **defendant**.

24 **DATED** this 25th day of July, 2005.

25 s/ Fred Van Sickle
26 Fred Van Sickle
United States District Judge